IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 16304 of 2003

Between:

P.C. Sarkar s/o late C.M. Sarkar,
R/o Plot No. HIG-63, Huda Colony Tanashanagar-500 075
Ranga Reddy District

..... PETITIONER

AND

1 The Secretary to the Government of India & Appellate Authority, Ministry of External Affairs, South Block, New Delhi
2 The Additional Secretary (AD&PV) Disciplainary Authority, Government of India, Ministry of External Affairs, CPV Division, New Delhi
3 The Regional Passport Officer, A.P. Regional, passport Office Adj To Prashant Theatre, Secunderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ, order or direction, more particulalry one in the nature of Writ of Certiorari calling for the records in O.A. No. 438 of 2002 on the file of the 4th respondent herein and quash the order dated 5-5-2003 being illegal and arbitrary and consequently restore back the increments and all other consequential benefits like promotion, seniority, fitment, other attendant and monetary benefits

Counsel for the Petitioner : MR.NAZIR AHMED KHAN

Counsel for the Respondent No.: MR.ARAJASHEKAR REDDY ,SC for Central Government.

The Court made the following :

ORDER: (Per Justice G.Bikshapathy)

This writ petition is filed assailing the order passed by Central Administrative Tribunal in O.A.No.438 of 2002 dated 5.5.2003.

The petitioner was working as Superintendent in Passport Office at Hyderabad. While so, a memorandum dated 30-4-1996 was issued on him containing the following articles of charges:

> " Article – I:
>
> Shri P.C.Sarkar, while working in Passport Office, Hyderabad as Superintendent during the period 1991 – 1992 issued passport to Shri Mohammed Shahzeb Ahmed, a Pakistani national on the basis of fake documents.
>
> Article – II:
>
> Shri P.C.Sarkar, while working in the passport office, Hyderabad as Superintendent during the period 1991-92 informed the Sr.Inspector of Police, Sahar Airport Police Station, Bombay vide letter dt.22.5.1992 that the particulars and photographer in passport No.F 480182 were found to be genuine one. Shri Sarkar had issued the letter despite directions issued by the then DS (PVA) to the passport office, Hyderabad vide letter-dated 2.7.1991 to initiate action impound/revoke the said passport.
>
> Article – III:
>
> Shri P.C.Sarkar, while working as Supdt. in the passport office, Hyderabad during the period 1991-92 issued passport to Shri Mohammed Raza, while accepting the special verification certificate issued by an officer who was not competent to issue such certificate.
>
> Shri P.C.Sarkar, by his above acts has committed grave misconduct

inasmuch as he failed to maintain absolute integrity and devotion to duty and thereby violated Rule 3(1)(i), (ii) and (iii) of the CCS (Conduct) Rules, 1964."

Thereafter the petitioner submitted an explanation and enquiry was held with regard to the charges framed against him. Ultimately, the disciplinary authority imposed punishment by an order-dated 3.10.2000 ordering penalty of reduction of pay by two stages from Rs.6725 to Rs.6375 in the time scale of pay of Rs.5500-175-9000 for a period of two years. Thereafter, he filed an appeal before the appellate authority and the same was dismissed.

Learned counsel for the petitioner submits that proper opportunity was not given to the petitioner and the documents asked by him were also not furnished by the respondent authorities and therefore it resulted in great prejudice to the case of the petitioner, which is violative of the principles of natural justice. He also submits that the explanation given by him not accepting the allegations/charges leveled against him was not taken into consideration while deciding the matter. Therefore, the Tribunal failed to consider these aspects and erroneously dismissed the O.A. by an order-dated 5.5.2003.

We have heard the learned Standing Counsel for Central Government on behalf of the respondents.

It is not in dispute that the petitioner was issued a memorandum dated 30-4-1996 containing the articles of charges to which he submitted explanation denying the charges. Thereafter, an enquiry was conducted and ultimately in enquiry it was found that the charges were established on the basis of material available on record. The contention that the petitioner was not issued with appropriate documents cannot be accepted inasmuch as whatever the documents were called for by the petitioners were furnished to him giving due opportunity and it is not the case of the petitioner that the documents were not furnished to him and that the same has caused

prejudice to his case. The Tribunal has considered the contentions of the learned counsel for the petitioner in great detail and found that the enquiry was conducted legally and in a valid manner without offending the right of the petitioner to participate in the enquiry. The Tribunal recorded a finding at para 11 with regard to the conduct of enquiry, which reads as follows:

" 11. On going through the facts and circumstances of the case and enquiry reports as well as the order passed by the disciplinary authority and appellate authority, I find no irregularities in conducting the enquiry and that the applicant was given opportunity to inspect the documents and he has also received the documents asked for and I find that the applicant has almost admitted the charges leveled against him and there is no specific denial of the contention made by the Inquiry Officer made in his report. No rejoinder has been filed by the applicant rebutting the reply filed by the respondents."

Having considered the contentions of the learned counsel for the petitioner and after perusing the material available on record, we do not find any ground to interfere with the order passed by the learned Tribunal, while especially when the petitioner was given proper opportunity to defend his case in the enquiry. It is also brought to our notice that the petitioner is retired from service in January, 2003. In those circumstances, we do not find any infirmity in the order of the Tribunal.

Accordingly, this writ petition is dismissed.

Tnb

Dated: 25-01-2005. (G.Bikshapathy, J)

(B.Seshasayana Reddy,J)

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to the Government of India & Appellate Authority, Ministry of External Affairs, South Block, New Delhi
2 The Additional Secretary (AD&PV) Disciplainary Authority, Government of India, Ministry of External Affairs, CPV Division, New Delhi
3 The Regional Passport Officer, A.P. Regional, passport Office Adj To Prashant Theatre, Secunderabad

4. 2CD copies